

Mr. Chairman, my Lords, Mr. Treasurer of the Law Society of Upper Canada, Benchers and members of the Bar Admission course: My first duty and my great pleasure is to express my sincere thanks for the honour you have conferred upon me in calling me to the highly esteemed Bar of this old Province of Ontario. I recall that I was first called to the Bar of Quebec in the year 1940. To you of the Bar admission course I am sure that this sounds like a very long time ago. My memories of the occasion are, nevertheless, still fresh enough to let me realize the feelings of achievement and satisfaction and - for want of a better word I am going to say adventure - which I am sure you are experiencing upon this very important occasion in your lives. I know it is the hope and determination of all of you to do justice to the profession and the Bar into which you have now been admitted.

It is a matter of very particular interest to me

to note that, out of this Bar admission class, some 22 have come from the University of Ottawa because it is not so many years ago since, while employed in the Department of Justice, I was a part time lecturer at the Law School of that University.

While speaking of the Law Faculty of the University of Ottawa, may I note here with some pride (because I was one of its founding members) that it is, I believe, the only law school in the world which harbors, under the same roof, two full-fledged and distinct law schools teaching respectively one of the two greatest systems of law known in this world, the Civil Law which is in force in the Province of Quebec and the Common Law which reigns in the other Provinces of Canada, including yours.

Our association with and affection for the University of Ottawa is another point, therefore, that quite a few of us

have in common. By way of contrast, there is a point which we do not have in common and, for this reason, your admittance to the Bar today entitles you to more credit than I can claim for the same achievement. I am referring to the fact that while members of the Bar admission course must, as I would say in French, "gagner leurs épaulettes" the hard way, this is an honour that is conferred upon the Minister of Justice without requiring him to submit to examinations. If it were not so, it is unlikely, I think, that many Ministers of Justice would ever be admitted, while occupying that position, to the Bar of this Province. At the same time I must tell you, frankly, that of the two methods, the easier is not necessarily to get yourself elected and thus become eligible to be appointed a Minister of Justice.

It is, at the one time, both easy and difficult

to speak to a Bar admission course. On the one hand, there are so many things to say and, on the other hand, so many of them have already been said to you or have already been considered by you, and, at all events, in the case of a man engaged in political life, there is so little time to prepare to say them well. I would not presume, this afternoon, to try to give you advice. There are, however, a few thoughts I would like to leave with you.

The lawyer is a man of many public images and this has been so not only for many years but for many centuries. The first reference to a lawyer, with which I am acquainted in literature, is in the Bible itself where a man named Gamaliel, described as a doctor of the law, was said to be held in good reputation among all the people. The next reference that comes to mind, is from the Canterbury Tales and here the author is poking some gentle fun at the

profession. Chaucer tells about the sergeant at law who had a good practice in the Exchequer Court. He was very discreet and respectable, or at least he seemed to be so because his words were so wise; he knew, word for word, all the cases and judgments which had been handed down since the time of William the Conqueror; he dressed simply in a grey costume although he did permit himself a silken girdle with ornaments and, now to quote the author direct, "no where was there a man so busy as he and yet he always appeared more busy than he was". For some time the image appears to have been slipping because, during Puritan times in England measures were even taken, so I am told, to disqualify lawyers from entering Parliament on the ground that, having regard to their loquaciousness, such exclusion would - and I am now quoting from an old book on the subject - "shorten the duration of the session, facilitate the dispatch of business,

and have the desirable effect of restoring the existing laws to their primitive Saxon simplicity and making them more like God's Commandments".

By way of aside, may I be allowed to remark that these Puritan's measures excluded lawyers from Parliament who would probably have been restored usefully in Ottawa in the course of the last three weeks, when the loquaciousness of members has made it so that the discussion of Supplementary Estimates (which usually does not last more than three or four days) has already been continuing for seventeen days and is probably still going on at this precise moment!

Again, there is the remark attributed to the famous Dr. Samuel Johnson who is reported to have said, when a friend of his left the party they were attending:

"I don't care to speak ill of any man behind his back, but I believe the person who has just taken his departure is

an attorney".

But every profession attracts its railleries. There is the famous Dr. Knock of French literature who kept his villagers in a state of continuous illness so that he might collect fees for attending them and counted it, as a serious error, if one of his patients either recovered or died. And I could go on indefinitely, about dentists, medical doctors and even psychiatrists! But, as in the case of medicine, dentistry and the other professions, the true image of the lawyer depends upon the appreciation, by the public, of what the lawyer stands for and accomplishes in and for the community. This image is now committed in a considerable measure to you, the members of the Bar admission course, to raise it or lower it by the manner in which you carry on the profession.

We know that today the image of the lawyer stands

high among all sectors of the community who think about such matters. The lawyer is conspicuous I believe, above all other professions, in participation in the collective life of the town, the city, the province and the country. Of course, his training fits him particularly well for this service. He is usually found in the foreground when it comes to the defence of civil liberties and I am referring here, not necessarily to his actual participation in Court cases, but to the position he takes as a citizen in bringing to public attention and resisting those forces which tend to impinge upon the rights and liberties of the individual. I need not offer you statistics or examples. I am sure you are all aware, in a general way, of the extent of such participation in societies, in municipal councils, in legislatures and in Parliament. In fact, the number of lawyers in some of these institutions is sometimes remarked, almost by

way of criticism, but I believe it is an excellent thing that lawyers should be willing to bring to bear upon public issues the benefit of their training in the conduct of assemblies, the sifting of evidence and the arrival at correct conclusions relating to public matters.

In the course of my still very brief experience in public life, I have noted with great satisfaction the great number of Members of the Bar who give their time gratuitously to the support of worthy causes in the public interest. Many of them have appeared before the Prime Minister and my Colleagues in Government to make representations relating, for instance, to the protection of civil rights and liberties, such as has been the case recently at the occasion of the fight undertaken against hate literature. For the very reasons, I suppose, which I have just outlined, many of the best prepared briefs are drafted and submitted by lawyers.

The degree of participation in public affairs must be a matter for the individual judgment and decision of the individual lawyer. I hope that a considerable number of you will, in due time, discover that you have likings for this kind of work. You will find it engrossing and rewarding.

I suppose that every generation, in recent times at least, believes that it is going through a period of great and significant change. Making every allowance however for the preoccupation of each generation with its own position in point of time, I think history will record that the present age is one of evolution and change beyond most periods of the past. Each profession and calling has its own part to play and its own problems to meet during a time of change such as we are now going through. The scientist must adapt to the expanding field of knowledge; the technician to modern developments;

the mechanic to the problems of automation.

The lawyer, of course, is not too likely to have serious problems with automation. It is true that some companies are now offering knowledge storing and finding machines which, they claim, can even prepare a basic brief. If there were an attempt to carry the use of such device to its ultimate, one should perhaps fear the day when lawyers inserted briefs thus prepared into larger computers which, in turn, would grind out the judgment. Can you imagine Mr. Justice Computer "A" of the Court of Appeal -- I trust that nobody will find me disrespectful in proposing that allegory, but, in case somebody should, I hereby solemnly promise that no computer will be appointed to the Bench so long as I remain the Minister of Justice -- can you, then, imagine Mr. Justice Computer "A" of the Court of Appeal turning out a judgment which would commence with the words "with every deference

to my brother in the Lower Court, Mr. Justice Computer "B", I am unable to agree with the conclusion at which he has arrived, but I venture to suggest that, here again, it probably has been the human factor which was at fault and that if counsel had fed the proper data into the Solicitor-Computer, my brother in the Lower Court would not have fallen into so serious an error.

Seriously, though, it is the task of the lawyer to see that individual human rights continue to be protected adequately in the face of the growing complexity of essential social and political institutions and the continuing but necessary encroachment by the State into areas that used to be regarded as belonging to private endeavour.

Sometimes, incidentally, things keep changing even faster than we realize and we even adapt to them without realizing that we are doing so. I am reminded of the story

about the little old lady who was going from Montreal to Boston to visit one of her grandchildren. It was suggested to her that she should go by airplane and she replied, rather indignantly, that she would do no such thing but would go by train the way the good Lord had intended her to go. In fact, things are changing so very fast that I am not even sure today how one would go about travelling by train from Montreal to Boston.

It is not unfair to other professions to claim that,^{among}/those of all callings, the lawyer is by training and practice the best suited, not only to defend individual rights in individual cases, but also to participate in and shape the institutions which, essentially designed to protect individual rights, may, because of their very nature, threaten them.in some way. Today, there is frequently a dilemma between the protection of civil liberties on the one hand and, on the

other hand, the services which are being required of the State. While people are anxious to protect personal rights and liberties, they are at the same time demanding services and functions of the State which, perhaps indirectly, but nevertheless inevitably, raise dangers of encroachment upon private liberties. A present example of such dilemma is found in the demands of many public minded groups for legislation against so-called hate literature, i.e., the distribution or dissemination of pamphlets or articles designed to provoke hate or to induce people to violence against racial, color or religious groups. Any legislation intended to curb and punish such shameful and resentful practices must, at the same time, be worded in such a way that it will not encroach upon or violate either the freedom of thought, of speech or of the press or even of association.

The solutions to this repeated dilemma are not

always easy to find, but the lawyer will always be the one to whom society will appeal, in final analysis, to produce and suggest ways and means to better meet these situations.

At the present time, very broad and basic problems exist, upon which public authorities will have to eventually make decisions, but with respect to which I suggest that all of us, members of the various Bars of this country, will have to make our respective contribution, either by way of research, discussion, writing of briefs or of articles, or by way of discharging our duties as Legislators. I shall certainly not attempt to list them all. May I, before concluding my remarks here refer to two of them, without attempting to suggest a solution, but merely letting you ponder same.

A most important question raised today is that which concerns the protection of civil rights and liberties

through a Bill of Rights. We have now under Statute Books, since August 10, 1960, an Act which is known as the Canadian Bill of Rights. That piece of legislation recognizes and purports to protect a series of basic human rights and fundamental freedoms. The principle on which it rests is that no Act of Parliament may be deemed to affect or limit any of such human rights and fundamental freedoms, unless the Act concerned expressly states that it so affects or limits it. To all intents and purposes, our present Bill of Rights is an interpretation statute. As a matter of fact, its effect is limited to interpret all the Acts of Parliament in the way which I have just stated. Everyone will realize that there exists, therefore, an immense difference between the Canadian Bill of Rights and the amendments to the American ^{of the U.S.} Constitution which really constitute the American Bills of Rights.

The effect of these amendments, precisely because they are embodied in the Constitution, is to restrain the constitutional rights of Congress to enact laws which may affect or limit any of the rights or freedoms recognized in the Constitution. The question, therefore, is whether or not, in Canada, it would be appropriate to amend the B.N.A. Act so as to integrate therein the provisions of our present Bill of Rights, with the effect of rendering henceforth ultra vires or unconstitutional any Act of Parliament which would purport to do away with any of the recognized rights or liberties. As the present Bill of Rights applies only to Acts of Parliament and not to those of the Legislatures of our various provinces, the question simultaneously arises as to whether or not there would be any point in amending the Canadian Constitution to provide for the protection of human rights and fundamental freedoms therein, if, at the

same time, such protection is not made to apply as against any law of any provincial Legislature.

Speaking still about private rights and liberties -- and this will be the second and last instance which I shall be referring to -- we have recently heard much about the idea of the Ombudsman. The Ombudsman is an institution which is already well known in certain of the Scandinavian countries, as well as in New Zealand. Its form and application vary in each of these countries; but, basically, it means an individual or a group of individuals, established and remunerated by the State, whose task, put briefly, would be to take up, as against the Government, cases of individuals who they were convinced, upon a proper examination of the facts, had been unfairly dealt with by Government Agencies. There are obviously many arguments in favour of adopting the institution in our country, as well as in the Legislatures of our various provinces. But

there are also many arguments against. Although one must admit in all humility that, in the domain of human affairs, perfection may never be reached, one may also feel that, if we try to keep our judicial institution up-to-date, making adequate provision for review, for legal aid and for simplified procedures, much less arguments would lie for the Ombudsman.

As I have said, I do not express any opinion for the moment and, as for the previous question, I leave it with you to ponder a bit. For my part, I shall continue informing myself and studying the matter in the light of the ~~XXX~~ of public interest.

Of course, if I were one of your law professors, I would feel seriously remiss in leaving you with so many unanswered questions. But I am not -- happily for you -- one of your professors and, having taught in the Civil Law Section, not in the Common Law Section of the Law School of

the University of Ottawa, I have not even been teaching law to any of those among you who have graduated from that University. I have only attempted to repeat and outline again what so many have noted and stated before me: that ours is a wonderful and challenging profession, one in the pursuit of which, as citizens, as Canadians, we are and will always be given the opportunity to serve our country and our fellow citizens, whatever be the specialized field in which we engage; a profession in which we will all be given the opportunity to help apply and uphold that extraordinary and only real safeguard of human rights and liberties which is known as the Rule of Law.
